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October 27, 2015

VIA ECF

The Honorable Loretta A. Preska
Chief Judge, United States District Court
Southern District of New York
500 Pearl Street, Room 2220
New York, NY 10007-1312

Re: *In re Digital Music Antitrust Litigation*, 06 MDL 1780 (LAP)

Dear Chief Judge Preska:

Pursuant to this Court's Individual Rules of Practice 2.A., Plaintiffs respectfully submit this letter in reply to Defendants' purported "Consolidated Response" to Plaintiffs' request for a pre-motion conference for their anticipated motion to strike redundant, immaterial, impertinent, and false matter from certain of Defendants' Answers to the Fourth Consolidated Amended Complaint (Dkt. No. 325).

Prior to filing their pre-motion letter, Plaintiffs sought concurrence from the Defendants to eliminate the objectionable material from their Answers. After Defendants ignored their request for 6 days, Plaintiffs filed their letter requesting the pre-motion conference on October 21, 2015. Only then did Defendants respond.

Plaintiffs deny Defendants' false assertion that the issues in Plaintiffs' Rule 12(f) Motion have been "narrowed" and the misleading implication that discussions continue. The opposite is true. On Friday, October 23, 2015 the parties held a telephonic meet and confer where it was clear that impasse was reached. Defendants consistently, and in lock-step, have rejected all of Plaintiffs' assertions concerning Defendants' Answers. Accordingly, the parties remained at an impasse, and Defendants were so informed promptly.

Defendants completely ignore and repudiate the Court's Individual Rules of Practice requiring a substantive response to a pre-motion letter within 3 days. No substantive response was filed. Defendants thus waived any and all objections to Plaintiffs' Rule 12(f) Motion.

Plaintiffs respectfully request that the Court grant Plaintiffs' Motion to Strike the specified objectionable material from Defendants' Answers. Plaintiffs reserve all other rights and remedies with respect thereto.

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Respectfully Submitted,

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